

Section I: Introduction

Equal access to housing is fundamental to each person in meeting essential needs and pursuing personal, educational, employment, or other goals. In recognition of equal housing access as a fundamental right, the federal government and the State of North Carolina have both established fair housing choice as a right protected by law.

Purpose of the Report

Through the federally funded Community Development Block Grant (CDBG) and HOME Investment Partnerships (HOME) programs, among other state and local programs, the City of Salisbury works to provide a decent living environment for all. Pursuant to CDBG regulations [24 CFR Subtitle A §91.225(a)(1)], to receive CDBG funds the City must certify that it “actively furthers fair housing choice” through the following:

- Completion of an Analysis of Impediments to Fair Housing Choice (AI);
- Actions to eliminate identified impediments; and
- Maintenance of fair housing records.

This report, the Analysis of Impediments to Fair Housing Choice (commonly known as the “AI”), presents a demographic profile of the City of Salisbury, assesses the extent of housing needs among specific income groups, and evaluates the availability of a range of housing choices for residents. This report also analyzes the conditions in the private market and public sector that may limit the range of housing choices or impede a person’s access to housing. As the name of the report suggests the document reviews “impediments” to fair housing. While this report also assesses the nature and extent of housing discrimination, the focus is on identifying impediments that may prevent equal housing access and developing solutions to mitigate or remove such impediments.

Legal Framework

Fair housing is a right protected by both Federal and State of North Carolina laws. Among these laws, virtually every housing unit in North Carolina is subject to fair housing practices.

Federal Laws

The federal Fair Housing Act of 1968 and Fair Housing Amendments Act of 1988 (42 U.S. Code §§ 3601-3619, 3631) are federal fair housing laws that prohibit discrimination in all aspects of housing, including the sale, rental, lease or negotiation for real property. The Fair Housing Act prohibits discrimination based on race, color, religion, sex, familial status, or national origin. In 1988, the Fair Housing Act was amended to extend protection to familial status and people with disabilities (mental or physical). Specifically, it is unlawful to:

- Refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, familial status, or national origin.

- Discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, familial status, or national origin.
- Make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap, familial status, or national origin, or an intention to make any such preference, limitation, or discrimination.
- Represent to any person because of race, color, religion, sex, handicap, familial status, or national origin that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.
- For profit, induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, handicap, familial status, or national origin.

Reasonable Accommodations and Accessibility: The Fair Housing Amendments Act requires owners of housing facilities to make “reasonable accommodations” (exceptions) in their rules, policies, and operations to give people with disabilities equal housing opportunities. For example, a landlord with a “no pets” policy may be required to grant an exception to this rule and allow an individual who is blind to keep a guide dog in the residence. The Fair Housing Act also requires landlords to allow tenants with disabilities to make reasonable access-related modifications to their private living space, as well as to common use spaces, at the tenant’s own expense. Finally, the Act requires that new multi-family housing with four or more units be designed and built to allow access for persons with disabilities. This includes accessible common use areas, doors that are wide enough for wheelchairs, kitchens and bathrooms that allow a person using a wheelchair to maneuver, and other adaptable features within the units.

North Carolina Laws

The North Carolina Human Relations Commission enforces the North Carolina State Fair Housing Act and is fully substantially equivalent with the Division of Fair Housing within the U.S. Department of Housing and Urban Development. The Commission participated in writing and implementing the Fair Housing goals for the Comprehensive Housing Affordability Strategy (CHAS) and the Consolidated Housing Plan required by the federal government. Further, the Commission also serves as a resource to Community Development Block Grant recipients in helping them develop adequate Fair Housing plans. The commission supports and works with 57 local autonomous commissions throughout the state of North Carolina. In addition, the commission also serves as a clearinghouse to disseminate information concerning North Carolina's employment law to citizens.

The North Carolina Fair Housing Act makes it illegal to discriminate in housing because of race, color, religion, sex, national origin, physical or mental handicaps, or family status (families with

children). The law applies to the sale, rental and financing of residential housing. Apartments, houses, mobile homes and even vacant lots to be used for housing are covered by the Fair Housing Act. With a few exceptions, anyone who has control over residential property and real estate financing must obey the law. This includes rental managers, property owners, real estate agents, landlords, banks, developers, builders and individual homeowners who are selling or renting their property.

Specifically, it is against the law to take any of the following actions because a person is a member of one of the protected categories:

- To refuse to engage in a real estate transaction
- To refuse to rent or sell housing
- To discriminate in terms, conditions, or privileges for the sale or rental of housing
- To refuse to receive or fail to transmit a bona fide offer to engage in a real estate transaction
- To indicate that housing is not available when it actually is available
- To discriminate by providing different facilities or services
- To refuse to negotiate for housing

Steering - Discouraging a person from seeking housing in a particular community, neighborhood, or development because the person is or is not a member of a protected category. For example, a real estate agent shows a black person housing in predominately black neighborhoods and a white person housing in predominately white neighborhoods.

Interference, coercion, or intimidation - Trying to limit the benefits of renting or buying housing in an area because the person is a member of one of the protected categories. This includes trying to coerce, threaten, intimidate, retaliate against, or interfere in any way with the use and enjoyment of housing.

Discriminatory advertising - Advertising or making any statement which indicates directly or indirectly an intent to make a limitation, specification, or to discriminate with respect to members of one of the protected categories.

Blockbusting (also referred to as panic peddling) - Trying, in a direct or subtle way, to scare a person into moving out of a neighborhood by representing that a person from one of the protected categories is considering or is in fact moving into the neighborhood. For example, stating that the neighborhood would decline or that the crime rate would increase if members of a protected category moved into the neighborhood would be unlawful.

Redlining - Being denied or subjected to stricter conditions in applying for a loan on property in a particular area because of the racial composition of the area, including loans to purchase, construct, improve, repair, or maintain housing.

Fair Housing Defined

In light of the various pieces of fair housing legislation passed at the federal and state levels, fair housing throughout this report is defined as follows:

A condition in which individuals of similar income levels in the same housing market have a like range of choice available to them regardless of race, color, ancestry, national origin, religion, sex, disability, age, marital status, familial status, sexual orientation, source of income, or any other category which may be defined by law now or in the future.

Housing Issues, Affordability, and Fair Housing

HUD's Fair Housing and Equal Opportunity Division draws a distinction between housing affordability and fair housing. ***Economic factors that affect a household's housing choices are not fair housing issues per se.*** Only when the relationship between household income, household type, race/ethnicity, and other factors create misconceptions, biases and differential treatments, would fair housing concerns arise.

Tenant/landlord disputes are also typically not related to fair housing. Most disputes between tenants and landlords result from a lack of understanding by either or both parties on their rights and responsibilities. Tenant/landlord disputes and housing discrimination cross paths when the disputes are based on factors protected by fair housing laws and result in differential treatments.

While this AI discusses the availability of affordable housing, this discussion is made in the context that affordability issues disproportionately impact minority households and persons with disabilities. The City recognizes that affordable housing in itself is not a fair housing issue.

Impediments Defined

Within the legal framework of federal and state laws and based on the guidance provided by the U.S. Department of Housing and Urban Development (HUD) Fair Housing Planning Guide, impediments to fair housing choice can be defined as:

- *Any actions, omissions, or decisions taken because of race, color, ancestry, national origin, religion, sex, disability, age, marital status, familial status, sexual orientation, source of income which restrict housing choices or the availability of housing choices; or*
- *Any actions, omissions, or decisions which have the effect of restricting housing choices or the availability of housing choices on the basis of race, color, ancestry, national origin, religion, sex, disability, age, marital status, familial status, sexual orientation or source of income.*

Background and Methodology

The Analysis of Impediments (AI) research and preparation involved a variety of data collection and analysis techniques, including:

- Analyzing demographic data available through the U.S. Census Bureau, as well as descriptive data pertaining to the housing market and trends in real estate over the past several years.
- Interviews with local government staff and community representatives, as well as a review of source documents, including the most recent AI, conducted in 2010.
- Examination of mortgage lending trends through the analysis of data available through the Home Mortgage Disclosure Act (HMDA). Enacted by Congress in 1975 and implemented by the Federal Reserve Board's Regulation C, HMDA requires lending institutions to report public loan data. Using the loan data submitted by these financial institutions, the Federal Financial Institutions Examination Council (FFIEC) creates aggregate and disclosure reports for each metropolitan area (MA) that are available to the public at central data depositories located in each MA.
- A review of the information available on Predatory Lending.

Predatory Lending

The National Community Reinvestment Coalition (NCRC), testified on July 25, 2007, before the Oversight and Investigations Subcommittee of the House Financial Services Committee in a Report entitled “Rooting Out Discrimination in Mortgage Lending: Using HMDA as a Tool for Fair Lending Enforcement”.

The NCRC has consistently maintained the position that responsible high-cost lending serves legitimate credit needs. Higher-cost loans compensate lenders for the added risk of lending to borrowers with credit imperfections. However, wide differences in lending by race, even when accounting for income levels and credit quality, suggests that more minorities are receiving high-cost loans than is justified based on financial criteria. Previous studies by NCRC and others suggest that minorities are, in fact, receiving a disproportionately large amount of high-cost loans, after controlling for creditworthiness and other housing market factors.

“The Dual Lending Marketplace”

In 2007, a Wall Street Journal article cautioned, “A looming foreclosure crisis confronts America as lending institutions have engaged in new forms of dangerous high-cost lending. As this committee knows, most of the high cost or subprime lending made in recent years feature adjustable rate mortgages (ARMs) with low ‘teaser’ rates for the first few years followed by rapidly rising rates. Incredibly, many lenders assessed borrowers’ abilities to repay only at the low teaser rates. These loose underwriting standards have created the conditions for a perfect storm as almost 2 million of the ARM loans will re-set or start adjusting upward from their initial rates in 2007 and 2008. A particularly disturbing aspect of this lending is the fact that a

disproportionate share of it has fallen on the backs of many of the most financially vulnerable households: modest income and minority families”.¹

In the same year, the NCRC released a report entitled “Income is No Shield Against Racial Differences in Lending”. Using HMDA data from 2005 (the most recent year available at the time for industry-wide data), NCRC observed striking racial disparities in high-cost lending. Researchers found that minority consumers (particularly black or a Hispanic) were most at risk of receiving poorly underwritten high-cost loans. Middle- or upper-class status did not shield minorities from receiving dangerous high-cost loans. In fact, NCRC observed that racial differences in lending increased as income levels increased. In other words, middle- and upper-income (MUI) minorities were more likely to receive high-cost loans than were low and moderate-income (LMI) minorities relative to their white counterparts.

When minorities receive a disproportionate number of high-cost loans, they lose substantial amounts of equity through higher payments to their lenders. In addition, they are more exposed to irresponsibly underwritten ARM loans. The lending disparities for blacks were large and increased significantly as income levels increased. In its report, NCRC researchers found that blacks of all income levels were twice as likely or more than twice as likely to receive high-cost loans as whites in 171 metropolitan statistical areas (MSAs) during 2005. MUI blacks were twice as likely or more than twice as likely to receive high-cost loans as MUI whites in 167 MSAs. In contrast, LMI blacks were twice as likely or more than twice as likely to receive high-cost loans as LMI whites in 70 MSAs. Moreover, MUI blacks receive a large percentage of high-cost loans. In 159 metropolitan areas, more than 40% of the loans received by MUI black were high-cost loans.

Mainstream media has carried hundreds of articles on the predatory lending debacle facing the country—some of which have focused on the disproportionate impact of the crisis on middle-income minority consumers. The Wall Street Journal, for example, subsequently wrote a poignant and detailed article describing widespread foreclosures due to predatory lending in Detroit’s middle-income black communities.²

¹ “Regulators are Pressed to Take Tougher Stand on Mortgages,” by Gregg Hitt and James R. Hagerty, Wall Street Journal, March 23, 2007.

² Mark Whitehouse, “A Day of Reckoning Subprime Aftermath: Losing the Family Home – Mortgages Bolstered Detroit’s Middle Class Until Money Ran Out,” Wall Street Journal, May 30, 2007, page A1.